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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/524,310	03/14/2000	Lennart Braberg	KRNOS-009XX	8521
207	7590	04/21/2005	EXAMINER	
WEINGARTEN, SCHURGIN, GAGNEBIN & LEOVICI LLP TEN POST OFFICE SQUARE BOSTON, MA 02109			JASMIN, LYNDIA C	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/524,310	Applicant(s) BRABERG ET AL.	
	Examiner Lynda Jasmin	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-28,30-36 and 61-65 is/are pending in the application.
- 4a) Of the above claim(s) 64 and 65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-28,30-36 and 61-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 24, 2005 has been entered.

Amendment received on December 17 2004 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

Art Unit: 3627

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-7, 9-28, 30-33, 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kahn et al. (6,401,079 B1), in view of Swart (6,347,306 B1)

Kahn et al. discloses a method for calculating an employee's compensation, including, in a processor (via application server 20), associating sets of attributes (via pay rate type, job classification) with pay categories (employee's payroll groups: salaried, hourly employees), associating a compensation qualifier (via standard pay rate with multiplier and/or increment see fields 3895, 3915) with each pay category (col. 37, lines 29-48), splitting the employee's shifts into sub-shifts (earnings broken out by types as for example overtime) responsive to work parameters (apply rules via Rules data 120), and for each subshift determining a set of attributes (such as non-exempt limits) for the sub-shift (for each overtime hours), determining and assigning a pay category with, which the set of attributes is associated, to the sub-shift (col. 14, lines 34-39), and determining compensation for the employee for the subshift, responsive to the assigned pay category, the employee's base pay and a compensation qualifier associated with the pay category (col. 14, lines 64-67).

Each set of attributes is a unique combination of attributes (as illustrated in the payroll information). The work parameters (via apply rules) include at least one of workplace rules (col. 16, lines 29-31), scheduled time, holiday calendars, dates and times of the shift (via the autopay schedules and holidays).

Art Unit: 3627

Kahn et al. further discloses creating a mapping which maps each set of attributes to at least one pay category (via pay rates and pay scales for particular job classifications), and determining the at least one pay category with which the set of attributes is associated is responsive to the mapping (col. 42, lines 12-37). This mapping is configurable by a user (the employer). Kahn et al. further discloses determining a total compensation for an employee for a pay period by adding the amounts determined for each subshift of the pay period (via the payroll information col. 41, lines 23-33). The plural compensation qualifiers are associated with a pay category, each compensation qualifier being in effect for a different time of day (via pay multiplier or added increments).

Kahn et al further discloses the compensation qualifier including a bonus time, such that determining compensation for the employee for the sub-shift comprises awarding the employee the bonus time (via a on time payments to employees col. 37, lines 9-14).

Kahn et al. further discloses a threshold for a first pay category (via standard pay rate) and defining an overflow pay category (via adjusting the standard pay rate) and calculating, for a given period (daily, weekly or bi-weekly), a total time awarded to the first pay category, and if the total time awarded to the first pay category exceeds the threshold, transferring the excess awarded time to the overflow pay category (by calculating overtime, double time, non-overtime, standard, time-and-a-half and employment defined rates, for high risk job which are used to generate payroll information).

Swart discloses the concept of automatically processing payroll using a time and attendance (hereafter T&A) system (200). Swart also discloses the concept of collecting information corresponding to identified transaction, where the identified transactions includes punch in and out information (col. 5, lines 44-57), and forming completed shifts, responsive to identified transactions, and the employee's schedule (col. 5, line 58 through col. 6, lines 16).

Swart further discloses that employee's actual compensation is calculated based on actual attendance and applicable compensation rules (by calculating total hours worked, regular hours worked and calculating overtime (col. 9, lines 48-65).

As per claim 21-25 and 30, Swart discloses calculating compensation based on actual attendance collected from punch information with any or all of IN/OUT information, timestamps and break indications collected by a reader or biometrics device (via the T&A system and via calculating hours of overtime worked in determining year end bonuses or in job performance review; see col. 1, lines 45-52 and col. 9, lines 48-65)

From this teaching of Swart, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the payroll system of Kahn et al. to include the punch in/out automatic tracking of time and attendance data of employees as taught by Swart in order to facilitate the calculation of employee completed shift or work segment.

5. Claims 61-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kahn in view of Swart, as applied to claim 1 above, and further in view Wynn et al. (5,717,867).

The Kahn and Swart combination discloses all the structural elements of claimed invention, however fails to explicitly disclose identifying an earliest transaction from among the identified transactions, qualifying one or more shifts and selecting a shift from the qualified shifts.

Wynn discloses the concept of determining and approving overtime worked, job changes, and different work zone assigned based on the time clock by each employee that automatically send the information to a computerized system to generate accounting records. Wynn further discloses determining hours data structure based on information from the time clocks stored in a clock scan data structure.

From this teaching of Wynn, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the autopay scheduling system of the Kahn and Swart combination to include the time clock system to qualify one or more shift such as overtime, change job or special department work as taught by Wynn et al. in order to facilitate and determine different hourly wage.

Response to Arguments

6. Applicant's arguments with respect to claims 1-7, 9-28, 30-36, and 61-63 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thomopoulos et al. is cited for identifying human beings by comparing fingerprints, and Palardy are cited for disclosing the concept of calculating employee compensation based on worked hours.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (571) 272-6782. The examiner can normally be reached on Monday- Friday (9:30-6:00) with Increased Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lynda Jasmin
Primary Examiner
Art Unit 3627
4/17/05

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